

# **Virginia Racing Commission**

## **MINUTES**

### **OF THE**

#### **COMMISSION MEETING**

**March 25, 2009**

**HORSEMEN'S BUILDING  
COLONIAL DOWNS  
10700 HORSEMEN'S ROAD  
NEW KENT, VA**

#### **In Attendance**

##### **Commission Members**

Peter C. Burnett, Chairman  
William H. (Trip) Ferguson  
I. Clinton Miller  
David C. Reynolds

##### **Commission Staff:**

Victor I. Harrison, Executive Secretary  
David S. Lermond, Jr., Deputy Executive Secretary  
Kimberly M. Carter, Office Administrator  
C. Richard Harden, DVM, Commission Veterinarian  
Joseph M. Roney, Director of Operations & Enforcement

##### **Attorney General's Office:**

Amy K. Dilworth  
Frank Ferguson

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At 9:36 a.m., Chairman Burnett called the regular monthly meeting of the Commission to order.

The minutes of the February 18, 2009 meeting were approved as amended (with respect to the 40 days of thoroughbred racing.)

Natalie Smith, Vice President of CRT/tanaka gave an overview of the continuing Ambassador activities. They have decided to focus on ensuring that the Ambassadors,

within the limitations of the remaining available funds in the 2008/09 budget, are moving about the Commonwealth, talking to different organizations, talking about the importance of the industry. In response to a question from Chairman Burnett she promised to determine the cost of the Ambassador program after June 30<sup>th</sup> and to explore the possible savings in using a college intern for that purpose. Executive Secretary Harrison will also consider the possibility of using VRC staff similarly.

Executive Secretary Harrison discussed the agenda of the February meeting of the Racing Safety and Medication Committee and submitted proposed changes to the Medication rules. After considerable discussion including the blessings of the Horseman's group the Commission voted in favor of adopting, *as final*, the following rules changes:

1. 11 VAC 10-180-10. Definitions, the definition of 'Prescription Substance' was further clarified by adding 'or labeled for use'.
2. 11 VAC 10-180-35 (F). Prohibited Practices, we deleted the reference to exceptions for boldenone, nandrolone, stanozolol and testosterone.
3. 11 VAC 10-180-35 (G). Prohibited Practices, we further qualified the authority of the VRC with respect to extracorporeal shockwave therapy.
4. 11 VAC 10-180-70 (C). Phenylbutazone, flunixin and other NSAIDS, Disciplinary actions. We reduced the Bute threshold to 2 micrograms per milliliter of plasma and further qualified the penalties for the levels of Bute.
5. 11 VAC 10-180-80 (C). Permitted race day substances, C. Furosemide. We added a specific Urine gravity measurement.
6. 11 VAC 10-180-110. (J) (2) Laboratory findings and reports, We added the phrase 'or his authorized designee' after Commission Veterinarian.

The motion to adopt the medication rules was made by Commissioner Miller and seconded by Commissioner Burnett. The motion carried.

Executive Secretary Harrison submitted proposed changes to the License Fee rule. After considerable discussion and a motion by Vice-Chair Miller seconded by Chairman Burnett the Commission voted in favor of adopting, *as proposed so that the rule making process may begin*, the following changes:

1. 11 VAC 10-60-15. Fee schedule for permit holders, 1. Each person connected with a Race Track and satellite wagering Facility within the Commonwealth of Virginia employed indirectly by such race track or Satellite Wagering Facility, or as in independent contractor acting as a laborer for or supplier of goods and services to such entities, shall purchase from the Virginia Racing Commission an annual occupational license which shall be valid at any Virginia pari-mutuel facility during a specified term of one year. A. Independent Contractor, laborers and suppliers; Excludes direct employees of the

Race Track and Satellite Wagering Facilities, licenses with scheduled annual fees of \$50 shall be issued to persons or entities with access to the backside, racing animals, jockeys' room, drivers' room, totalisator room, mutuels, money room, or to persons who, by virtue of the position *they* hold, might be granted access to these areas or to any other person or entity in one of the following categories: Any on-site business or representative of such business such as a vendor, contractual concessionaire, business owning racing animals, trust or estate, totalizator company, stable name or other fictitious name, or professional persons with access to the backside of a racetrack such as trainers, officials, veterinarians, jockeys and apprentices, drivers, owners, trustees, or any management or officer or director or shareholder or any other professional-level person who might have access to the jockeys' room, the drivers' room, the backside, the racing animals, or managers or supervisors requiring access to mutuels machines, the money room, or totalisator equipment. B. Direct Employees; Licenses with scheduled annual fees of \$25 shall be issued to employees of the race track and satellite wagering facilities including but not limited to employees in the following areas: management, administrative, marketing, medical, operations, parking, admissions, food services and hospitality, plant, staff, security, maintenance, mutuels, money-room, tote room or provide the security or maintenance of these areas.

Commissioner Miller made the motion to adopt for proposal and was seconded by Commissioner Ferguson. The motion carried.

James Weinberg, counsel for Colonial Downs, spoke to their request for modifying the 2009 Thoroughbred racing season so that it would begin on June 5<sup>th</sup> and end on July 28 with the usual five days per week of racing. The modification was made contingent upon notification to Mr. Harrison by noon on Friday March 27, that the parties have reached an agreement and that the signed agreement hit Mr. Harrison's desk no later than Monday. Mr. Weinberg alerted the Commission that track President Ian Stewart had been admitted to a local medical facility and his potential unavailability may slow down the agreement process. The motion was made by Commissioner Burnett and seconded by Commissioner Reynolds. All were in favor. The motion carried.

A pointed discussion ensued relating to the Thoroughbred Horsemen's contract specifically with respect to the ratio of stakes race purses to overnight race purses. Mr. Petramalo stated that the track and the horsemen were essentially at an impasse over \$50,000. The track argued in favor of a higher stakes percentage versus the horsemen's call for a lower percentage rate. That led to Vice-Chair Miller inquiring about possible sponsorship of the VA Derby and Colonial Turf Cup vis-à-vis the 'KY Derby presented by Yum Brands'. Commissioner Ferguson raised the issue of the Mars family and their sponsorship of Auto racing. He also asked Mr. Weinberg to opine on the importance and impact of the stakes race days on a race track's finances. Discussion participants made

purse comparisons to Churchill, Keeneland and Charlestown. Mr. Weinberg described Mr. Jacobs' view that the VA Derby purse has seen a steady decline from its peak of a million dollars.

Attorney General's representative Frank Ferguson clarified the meaning of the statute enabling the VRC to approve the Horsemen's contract and the possibility of scheduling a special meeting to do so. He added that the contract has to be approved at a public meeting and that the next monthly meeting of the Commission qualifies as such. There was a short related discussion of a possible changing of the days-of-the-week of the 2009 harness racing meet – live racing Fridays instead of Sundays.

There was a lengthy discussion on the 2009 100% Owners' Bonus. Glenn Petty stated that the owners' awards were constructed in for the 2008 meet to double the purse of any horse finishing first through sixth. That 2008 program projections were based on the 2007 numbers wherein the 50% bonus had cost \$250,000. The 100% bonus in 2008 was projected at \$600,000 thus leaving adequate money to fund the restricted races and to pay back awards. Mr. Petty stated unequivocally that, of all the things being done to bring attention to Virginia for Virginia-bred horses, the 100% bonus has been by far the most successful. He described the 2009 bonus plans and associated costs thereof being considered for this coming season:

1. 100% to the race-winner only. The cost would be above \$700,000 for the year.
2. 10% minimum bonus to the race winner and 100% to the 2<sup>nd</sup> through 6<sup>th</sup> place finishers. The cost would be approximately \$500,000 for the year.

Mr. Petty added the ADW money derived from the legislation beginning July 1, 2009 may eventually generate upwards of \$400,000 annually to fund these bonuses but the 2009 figure is unable to be approximated at this time. Chairman Burnett raised the possibility of paying the standard purse money contemporaneously as is done historically but paying the bonus at the end of the year. The Chairman added that paying 100% to the 2<sup>nd</sup> through 6<sup>th</sup> place finishers would be an inducement for fuller fields especially in this economy. Mr. Petramalo commented that the 10%/100% was a wonderful idea. This was seconded by Robin Richards who mentioned that the VA breeds have such a short window and few opportunities. Chairman Burnett agreed that, "more people would get money." Mr. Petty suggested a meeting of the VTA and the VRC's Breeders Fund Committee. Chairman Burnett asked that Mr. Petty explore the sponsorship of Breeders Awards.

During public participation, Mr. James G. Staples of Bellwether Productions, a producer for promotional marketing for horse racing emphasized the fact that Bellwether Productions can help Colonial Downs promote horse racing in the Commonwealth inexpensively. In response to questions from Commissioner Ferguson and comments from Commissioner Reynolds, Mr. Staples said that he was offering his company's marketing services to the race track and Jacobs Entertainment.

Mr. Torrey Charles thanked the Commission for helping to make their production series - Fast Facts at the Track - a success. Mr. Charles stated that the success was trackable via 6500 'hits' received through YouTube et al for the 20 Fast Fact videos.

Mr. Darrell Davidson, a Maryland horse owner stated that, while he enjoys coming to Virginia to race, on July 8, 2007, one of his horses was hurt and had received over a hundred stitches. Mr. Davidson stated that he ha incurred approximately \$3,000 worth of damages and that the issue has not been resolved. Mr. Davidson was advised by the Commission to contact, as a starting point, the Executive Secretary to express his concerns and especially to the legal counsel for Colonial Downs. Vice-Chair Miller suggested Mr. Davidson check with an attorney on the related statute of limitations

There being no further business, April 15<sup>th</sup> was set as the date of the next meeting to be held at Horsemen's Building, Colonial Downs, 10700 Horsemen's Road, New Kent, VA at 9:30 AM. It was moved, seconded, and carried to adjourn this March, 2009 monthly meeting of the Commission.